

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION**

**CARLA WILSON ABRAHAM, et al.**

**V.**

**ONEOK,  
d/b/a Texas Gas Service Company**

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**NO. 1:06-CV-500**

**ORDER ADOPTING  
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

The court referred this matter to the Honorable Earl S. Hines, United States magistrate judge, for pretrial proceedings pursuant to a Referral Order filed on September 17, 2007. The court has received and considered the report of the United States magistrate judge, who recommends that the court remand this case to the 136th Judicial District Court of Jefferson County, Texas. Judge Hines concluded that defendant did not meet its burden of showing by a preponderance of evidence that the amount in controversy exceeds \$75,000 for each plaintiff, and recommended that the motion to remand be granted.

Defendant objects to the magistrate judge's findings, conclusions, and analysis. This requires a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. 28 U.S.C. § 636(b)(1)(C).

After conducting such review, the court concludes that the magistrate judge's findings, conclusions and analysis are correct. The court concurs with the magistrate judge's determination that in mass tort actions involving alleged ambient exposure to a toxic substance under circumstances where the amount of exposure and ensuing injuries inevitably vary widely among

diverse plaintiffs, it is not facially apparent that the requisite amount in controversy is present for *each* plaintiff simply because a petition filed in state court contains hyperbole relating to a broad spectrum of injuries and damages that *may* have been sustained by *some* plaintiffs. Defendant did not even attempt to prove the requisite jurisdictional amount through summary judgment-type evidence, while plaintiffs submitted a clarifying stipulation that *no* plaintiff seeks to recover damages over \$75,000.

Accordingly, defendant's objections are **OVERRULED**, and the magistrate judge's report is hereby **ADOPTED**. It is further

**ORDERED** that plaintiffs' motion to remand (Docket No. 24) is **GRANTED**.

The purpose of the referral having been served, it is further **ORDERED** that the reference to the magistrate judge is **VACATED**.

**SIGNED** this the 13 day of June, 2008.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield  
United States District Judge